UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION))) MDL No. 1456
) Civil Action No. 01-12257-PBS
THIS DOCUMENT RELATES TO: ALL CLASS ACTIONS) Judge Patti B. Saris))

SCHERING-PLOUGH CORPORATION'S AND WARRICK PHARMACEUTICALS CORPORATION'S MOTION FOR SUMMARY JUDGMENT AS TO CLASS 3 CLAIMS

Pursuant to Fed. R. Civ. P. 56, Defendants Schering-Plough Corporation ("Schering") and Warrick Pharmaceuticals Corporation ("Warrick") respectfully move this Court to grant summary judgment in favor of Schering and Warrick as to all Class 3 claims. The grounds for this motion are set forth in the Memorandum in Support of Schering's and Warrick's Motion for Summary Judgment as to Class 3 Claims. Schering and Warrick also submit herewith a Concise Statement of Undisputed Material Facts in Support of Schering's and Warrick's Motion for Summary Judgment as to Class 3 Claims.

WHEREFORE, Schering and Warrick respectfully request that the motion for summary judgment as to Class 3 claims be GRANTED.

REQUEST FOR ORAL ARGUMENT

Pursuant to LR. 7.1, Schering and Warrick respectfully request that oral argument be heard on this motion.

Schering-Plough Corporation and Warrick Pharmaceuticals Corporation By their attorneys,

/s/ John T. Montgomery

John T. Montgomery (BBO#352220) Steven A. Kaufman (BBO#262230) Eric P. Christofferson (BBO#654087) Ropes & Gray LLP One International Place Boston, Massachusetts 02110-2624 (617) 951-7000

Dated: July 14, 2006

CERTIFICATE OF COMPLIANCE WITH LR. 7.1

I hereby certify that counsel for Schering and Warrick attempted to confer with counsel for Plaintiffs in a good-faith effort to resolve or narrow the issues set forth herein.

/s/ Eric P. Christofferson
Eric P. Christofferson

CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2006, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Eric P. Christofferson
Eric P. Christofferson